

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of

Billed Party Preference
for 0+ InterLATA Calls

)
) CC Docket No. 92-77
)
)

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REPLY COMMENTS OF NATIONAL TELE-SAV, INC.

National Tele-Sav, Inc. ("NTI"), by its undersigned attorneys, submits these replies in response to the more than 150 comments that were filed with the Federal Communications Commission ("Commission") in response to the above-referenced Further Notice of Proposed Rulemaking ("FNPRM").^{1/} In the FNPRM, the Commission tentatively concludes that the benefits of implementing billed party preference ("BPP") would outweigh the costs, and asks for comment on its cost/benefit analysis.^{2/}

The vast majority of commentors, including NTI, conclude that BPP should not be implemented. Generally speaking, the commentors demonstrate that the cost/benefit analysis contained in the FNPRM significantly overestimates the benefits which would inure from implementation of BPP and grossly underestimates the costs of implementation. As a result, the record established in

^{1/} FCC 94-117 (released June 6, 1994). The Commission has extended the deadline for filing reply comments twice. First, the Commission extended the deadline from July 29 to August 31, 1994. Billed Party Preference for 0+ InterLATA Calls, DA 94-703 (released June 24, 1994). Second, the Commission extended the deadline from August 31 to September 14, 1994. Billed Party Preference for 0+ InterLATA Calls, DA 94-901 (released August 18, 1994).

^{2/} FNPRM at ¶ 37.

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response to the FNPRM demonstrates beyond any doubt that the costs of implementing BPP would exceed the benefits by a substantial margin and that, therefore, mandating implementation of BPP would not be in the public interest.

With regard to the benefits identified by the Commission, the comments demonstrate that the \$280 million in annual "savings" which the Commission claims consumers would reap by avoiding the "highest-priced" operator service providers ("OSPs") are greatly overstated because: (1) the rate differential between "third-tier" OSPs, which the Commission seems to believe are the "highest-priced" OSPs, and the three largest OSPs, AT&T, MCI Telecommunications Corporation, and Sprint Corporation ("Sprint"), is not as significant as the Commission claims and is trending downward;^{3/} (2) the rate differential is likely to continue decreasing over time as "third-tier" OSPs are subject to increased competitive pressures from consumers who use access codes to reach their preferred OSPs;^{4/} and (3) the rates charged by some "third-tier" OSPs are not likely to drop to the same level as the Big 3 regardless of whether BPP is implemented because they have higher cost structures than the largest OSPs.^{5/} Moreover, the comments demonstrate that the \$340 million in annual "savings" the Commission claims would result

^{3/} AT&T Comments at 6-7; BellSouth Telecommunications, Inc. ("BellSouth") Comments at 6; Competitive Telecommunications Association ("CompTel") Comments at 35.

^{4/} American Public Communications Council ("APCC") Comments at 21-24; Bell Atlantic Comments at 7-10; CompTel Comments at 33-34; Intellicall Companies ("Intellicall") Comments at 4; Oncor Communications, Inc. ("Oncor") Comments at 5-6.

^{5/} BellSouth Comments at 7-8; CNS Comments at 26-36.

from the elimination of aggregator commissions are significantly overstated because these alleged "savings" would be offset by, among other things, an increase in the marketing expenses of small OSPs that try to compete with the largest OSPs in a BPP environment^{6/} and increases in the fees charged by call aggregators, such as higher fees for hotel rooms and airport parking, to make up for lost commissions.^{7/} The comments also show that a number of the other benefits identified by the Commission in the FNPRM would not materialize if BPP is implemented. These include easier access to the local switched network,^{8/} elimination of certain competitive advantages enjoyed by AT&T,^{9/} reduction in the need for regulatory oversight of the

^{6/} AT&T Comments at 16; CompTel Comments at 15; Oncor Comments at 11.

^{7/} Airport Association Council International ("AACI") at 8-9; AT&T Comments at 14.

^{8/} American Council on Education Comments at 2; America's Carriers Telecommunications Association Comments at 3; APCC Comments at 21-24; Bell Atlantic Comments at 7-10; BellSouth Comments at 3-5; CompTel Comments at 33-34; Intellicall Comments at 4; Oncor Comments at 5-6; Rochester Telephone Corporation Comments at 1; Teleport Communications Group, Inc. ("Teleport") Comments at 3; Teltrust, Inc. ("Teltrust") Comments at 11.

^{9/} The points made by NTI in its comments on this issue - that the Commission should restrict use of AT&T's Card Issuer Identifier ("CIID") calling card to access code calling, or in the alternative, require AT&T to provide all OSPs with nondiscriminatory access to the validation information necessary to complete calls made using the CIID card - is confirmed by some of the comments. BellSouth Comments at 10; CNS Comments at 35-36; Oncor Comments at 19.

OSP industry,^{10/} and improvements in the nation's telecommunications infrastructure.^{11/}

As for the costs of implementing BPP, the record established in response to the FNPRM demonstrates that the Commission's estimate of what it would cost local exchange carriers ("LECs") and OSPs to implement BPP - approximately \$1.22 billion in nonrecurring expenses and \$60 million in annual recurring expenses - greatly understates what it would actually cost to implement BPP. For one thing, when the updated cost estimates provided by many LECs are added to the previous cost estimates of the other LECs and OSPs, it becomes clear that the cost to LECs and OSPs of implementing BPP would exceed \$1.6 billion.^{12/} Moreover, the commentors make clear that, if implemented, BPP would have a deleterious impact on the OSP industry,^{13/}

^{10/} APCC Comments at 27-28; BellSouth Comments at 11-12.

^{11/} None of the commentors currently know of any use for BPP technology other than to offer BPP. Ameritech Operating Company ("Ameritech") Comments at 9; NYNEX Telephone Company ("NYNEX") Comments at 8; GTE Service Corporation ("GTE") Comments at 12; Southwestern Bell Telephone Company ("SWBT") Comments at 7.

^{12/} The comments of Ameritech, Bell Atlantic, BellSouth, the Cincinnati Bell Telephone Company, GTE, NYNEX, Southern New England Telephone Company ("SNET"), Sprint, SWBT, and the United States Telephone Association ("USTA") all contain updated LEC cost estimates. However, neither the Pacific and Nevada Bell Telephone Companies ("PacBell") nor any of the OSPs that filed comments provide any updated estimates of LEC costs, and US West, Inc. did not file comments. By adding the updated LEC cost estimates to the previously provided LEC and OSP estimates, the total cost to LECs and OSPs of implementing BPP would be approximately \$1.59 billion.

^{13/} CNS Comments at 11-16; CompTel Comments at 15; Intellicall Comments at 24; Teltrust Comments at 6.

competitive access providers,^{14/} independent pay telephone providers,^{15/} and call aggregators.^{16/}

Finally, the comments also show that there are a number of other controversial issues that the Commission would need to resolve before BPP can be implemented. For instance, many commentors indicate that requiring BPP for interstate operator assisted calls only, as the Commission proposes to do in the FNPRM, would cause tremendous confusion among consumers because they would never know whether BPP is available.^{17/} In addition, the comments reveal considerable disagreement on the following issues: (1) whether the Commission should require 14-digit screening to ensure that all OSPs have the ability to offer line number calling cards;^{18/} (2) whether extensive balloting should be required so that consumers have an adequate opportunity to choose their preferred "0+" carrier(s);^{19/} (3) whether

^{14/} MFS Communications Company, Inc. Comments at 3-8; Teleport Comments at 8-11.

^{15/} AACI Comments at 8; North Carolina Payphone Association Comments at 1; Teltrust Comments at 10.

^{16/} South Carolina indicates that it received almost \$4 million in fiscal year 1992-93 and over \$4.3 million in fiscal year 1993-94 from commission payments. These payments help fund various programs of South Carolina's colleges and universities and, if lost, would have to be recouped in other ways that would impact on the state's educational mission. South Carolina Office of Information Resources ("South Carolina") Comments at 5.

^{17/} CompTel Comments at 20; GTE Comments at 6; National Association of Utility Regulatory Commissioners ("NARUC") Comments at 5; NYNEX Comments at 5; Oncor Comments at 24.

^{18/} CompTel Comments at 7; NYNEX Comments at 9; Oncor Comments at 8; USTA Comments at 12.

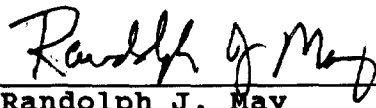
^{19/} CNS Comments at 14; Intellicall Comments at 24.

correctional facilities should be exempt from BPP;^{20/} and (4) whether a federal/state joint board should be convened to address the federal/state cost allocation issues associated with BPP implementation.^{21/}

In light of the foregoing, National Tele-Sav, Inc. urges the Commission to terminate this proceeding immediately and to take the steps described in its initial comments - eliminate the discriminatory billing and collection practices employed by many LECs and, at a minimum, require AT&T to provide nondiscriminatory validation of its CIID cards - which would help to level the playing field between small OSPs such as NTI and dominant carriers such as AT&T and the LECs.

Respectfully submitted,

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September 14, 1994

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^{20/} AT&T Comments at 25-26; Idaho Public Utility Commission Comments at 4; PacBell Comments at 3; South Carolina Comments at 8; SWBT Comments at 12.

^{21/} NARUC Comments at 5; SNET Comments at 8; Virginia State Corporation Commission Staff Comments at 2.

CERTIFICATE OF SERVICE

I, Carolyn J. Kay, hereby certify that copies of the foregoing Reply Comments of National Tele-Sav, Inc. were served by hand this 14th day of September 1994 on the following:

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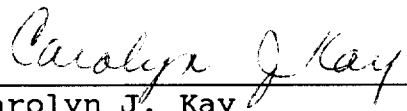
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